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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,582	01/24/2002	Kazuki Hosoya	018842.1195	3494

24735 7590 03/31/2003

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EXAMINER

DUONG, THO V

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 03/31/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/053,582

Applicant(s)

HOSOYA ET AL.

Examiner

Tho v Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 13-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Claims 13-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed subject matter of “said heat exchanger is a stacked-type heat exchanger...one fin being stacked alternatively” and “a pair of tube plates...are connected” must be shown or the feature(s) canceled from claims 3 and 4. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-4 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Okuda et al. (US 5,800,673). Okuda discloses (figures 5-7) a stacked -type heat exchanger comprising a plurality of aluminum heat transfer tubes (1) formed by pairs of tube plates (6) and fins being stacked alternatively with the tubes; each pair of tube plates (6) having flange portions (6a) connected together; and each of the aluminum tube plates are coated with a resin (S). Regarding claim 11, the method of forming "by fusing said resin" the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okuda in view of Yamasoe (US 5,478,872). Okuda substantially discloses all of applicant's claimed invention except for the limitations of the resin material and its thickness. Yamasoe discloses (column 1, lines 60-67) that the resin material of thermoplastic and thermosetting resin such as alkyd resin and polyester resin respectively are coated 5  $\mu$ m in thickness on an aluminum surface to provide an anticorrosion and hydrophilic film for the aluminum material. It would have been obvious to one having ordinary skill in the art at the time the invention was to use Yamasoe's teaching in Okuda's heat exchanger to provide an anticorrosion and hydrophilic film on aluminum material. Regarding claims 9 and 10, it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to select nylon resin or vinylidene fluoride resin as a thermoplastic resin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yalyi (US 3,666,006) discloses a thickness of a resin material coated on an aluminum material.

Huber et al. (US 3,590,917) discloses a plate heat exchanger that has thermoplastic resin as adhesive.

Yamasoe (US 4,828,616) discloses a surface treatment that has nylon resin coated on an aluminum.

Ohara et al. (US 4,830,101) discloses a resin material coated on an aluminum material wherein the resin is organic material.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tho Duong whose telephone number is (703) 305-0768. The examiner can normally be reached on from 9:30-6 PM.

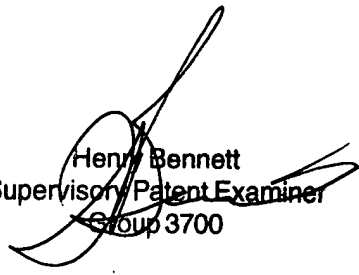
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7764.

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Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

Tho Duong

March 14, 2003



Henry Bennett  
Supervisor/Patent Examiner  
Group 3700